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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,064	07/12/2001	Richard C. Greenough	68099-004	1900

7590

07/02/2004

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EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/904,064

Applicant(s)

GREENOUGH, RICHARD C.

Examiner

Dennis Ruhl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17,47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With respect to claims 17,47, applicant has not disclosed anything about how the claimed step of "chartering an aircraft" is done. If a search results in no aircraft available at the specified departure, destination, date/time, how does applicant go ahead and secure an aircraft? It just seems that if no aircraft are available with one free seat, where does the aircraft come from? Applicant has not explained anything about how this step is accomplished.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20,82, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claim 20, there is no antecedent basis for "the geographic coding solution".

Is this supposed to be "geographic coding system" or "potential air transportation

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solution"? There is no geographic coding solution. The examiner has interpreted this claim as the examiner best understands it.

With respect to claim 82, the dependency of this claim is not clear. There is no claim 5140. Correction is required.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-7,10-13,16,18-25,29-34,37-43,46,51-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Keller et al. (2001/0053989).

For claims 1-7,10,12,13,16,29-34,37-43,46,51-68,69-71,73-82, Keller discloses a method of allowing a customer to submit a request for a flight from a specified departure location to a specified arrival destination at a specified time. The user submits the request and a computer, server, and database(s) work together to execute a search using search criteria. The search results in an air transportation solution (available flights, no flights available, etc.). The companies that participate are one or more than one. The database is searchable as claimed. The request is capable of being sent as claimed. The search results include the cost and departure/arrival times as claimed, name of a company or companies there are results for.

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For claim 11, at some point in the setting up of a particular flight for an aircraft the flight is what can be considered empty. There has to be a 1<sup>st</sup> customer at some point so the disclosure of Keller will result in a customer making a reservation on a flight that is empty, because of the fact that he/she may be the first person to make a reservation for that flight itinerary.

For claims 18,19, because Keller allows one to search by departure and arrival location (i.e. location data) the data is organized in some manner by geographical location.

For claims 20,21, Keller discloses that exact matches may not occur. See paragraph 38. When searching a specific airport for a desired flight, you are using geographic coding (the airport locations are represented by data in the database system). If no flights are in the results of the search, Keller discloses that you will be shown the two lowest fares available. This is an allowance for inexact matches in the search.

For claims 22-25,72, Keller uses data to represent the location of destination and arrival locations. This is inherent. Whether a name, a number, or a symbol represents the location, they are still data that represents a location. Reciting that the location is represented by latitude and longitude is still reciting a location. Specifying a location with latitude or longitude or by saying "Atlanta" is the same thing. The examiner feels that Keller anticipates the claimed invention.

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7. Claims 1-16,18-43,45,46,48-82 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (6134534).

For claims 1-7,10-13,16,18-41,43,46,48-68,69-71,73-82, Walker discloses a method of allowing a customer to submit a request for a flight from a specified departure location to a specified arrival destination at a specified time. The user submits the request and a computer, server, and database work in conjunction to execute a search using search criteria. The search results in an air transportation solution (available flights, no flights available, etc.). The companies that participate are one or more than one. The database is searchable as claimed. The request is capable of being sent as claimed. The search results include the cost and departure/arrival times as claimed, name of a company or companies there are results for.

For claims 8,9, see column 20, lines 1-14.

For claims 14,45, a commission is a fee and if you want to participate in the system of Walker as a seller of air transportation services you must pay a commission. This is a fee that comes with membership in the system. This satisfies what is claimed.

For claim 42, the examiner interprets this claim to be reciting access to a customer and no more. The term subscriber does not really mean anything and is a broad term.

For claim 72, Walker uses data to represent the location of destination and arrival locations. This is inherent. Whether a name, a number, or a symbol represents the location, they are still data that represents a location. Reciting that the location is represented by latitude and longitude is still reciting a location. Specifying a location

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with latitude or longitude or by saying "Atlanta" is the same thing. The examiner feels that Keller anticipates the claimed invention.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 15,44, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6134534).

For claims 15,44, Walker discloses the collection of a commission, which is more or less a membership fee. Walker does not disclose that the buyer/customer pays a membership fee. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the customer pay the commission as opposed to the airline company. If the owner of the system wants to make money and charge a commission you only have two choices, the airline company or the buyer. Charging the customer is considered to be obvious to one of ordinary skill in the art.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leiseca et al. (5253165) discloses a computer reservation system for aircraft.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703-308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DENNIS RUHL  
PRIMARY EXAMINER